

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

06-cr-89-01

v.

CONNES B. CAMPBELL,

Defendant.

On May 26, 2015, Defendant Connes B. Campbell filed what he called a “brief to supplement and correct motion to reduce sentence,” in which he took issue with the court’s determination that he was sentenced as a career offender and, for that reason, is not eligible for a reduction in his sentence under 18 U.S.C. § 3582(c)(2).

In an order entered on June 3, 2015, I construed defendant’s submission as a timely filed appeal because it was filed within 14 days, the time allowed under Fed. R. App. 4(b) for filing an appeal for denial of a motion in a criminal case. United States v. Redd, 630 F.3d 649, 650 (7th Cir. 2011) (time for adjusting sentence is limited; prisoner is not entitled to more than one opportunity to request lower sentence for any given change in guidelines range) and denied the appeal. In light of that construction, it is necessary to determine whether the defendant is eligible to proceed on appeal in forma pauperis.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for

court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Defendant had court-appointed counsel during the criminal proceedings. Therefore, he can proceed in forma pauperis on appeal unless I find that his appeal is taken in bad faith. In this case a reasonable person could not suppose that the appeal has some merit, as is required in order for the appeal to be taken in good faith. As I explained in the June 3, 2015 order, defendant does not qualify for a reduction under either amendment to the sentencing guidelines. Because he is not eligible for a reduction, I will deny his request to proceed in forma pauperis on appeal.

Under Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by (1) an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and (2) a copy of this order.

ORDER

IT IS ORDERED that defendant Connes Campbell's request for leave to proceed in forma pauperis on appeal is DENIED. I certify that defendant's appeal is not taken in good

faith. Defendant has the right to appeal this order certifying his appeal as not taken in good faith.

Entered this 9th day of June, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge